

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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REPUBLIC RESTAURANT, INC., :
 :
 Plaintiff, :
 :
 vs. : Case No. 03-CV-12649-NMG
 :
 HAYDAN WASHINGTON STREET, INC., :
 d/b/a PHO REPUBLIQUE and JACK H. :
 BARDY, :
 :
 Defendants. :
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**AFFIDAVIT OF MATTHEW P. ZAYOTTI, ESQ.
OF PLAINTIFF'S COMPLIANCE WITH CONDITIONS
OF COURT'S ORDER FOR DISMISSAL WITHOUT PREJUDICE**

I, Matthew P. Zayotti, Esq., do hereby state and depose as follows:

1. I am an associate with the law firm Keegan Werlin LLP.
2. I am presently, and since 1997, I have been, an attorney in good standing of the bar of the Commonwealth of Massachusetts.
3. I, along with attorneys Francis M. Lynch, Esq. of this firm, and Jeffrey M. Tamarin, Esq. of the firm Reed Smith LLP, represent the Plaintiff Republic Restaurant, Inc. in connection with the above-captioned matter.
4. By Memorandum & Order dated October 26, 2005, this Honorable Court ordered, in relevant part, as follows:

This case is **DISMISSED WITHOUT PREJUDICE**. The Court imposes costs and fees upon the Plaintiff in the amount of One Thousand Dollars (\$1,000), which shall be paid directly to Defendants. If the amount is not paid within 15 days of this Order, the case will be dismissed with prejudice.

Memorandum & Order, at 4. (Emphasis in original).

5. Attached hereto as Exhibit A is a true and accurate copy of Attorney Tamarin's transmittal letter to Defendant's counsel, Merton Thompson, Esq., dated November 1, 2005, which reflects that Plaintiff's check in the amount of One Thousand Dollars (\$1,000) was forwarded to Defendant's counsel via Federal Express within 15 days of the Order in compliance with the conditions imposed by this Honorable Court for dismissal of this action WITHOUT PREJUDICE.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS

10th DAY OF NOVEMBER, 2005.

Matthew P. Gayotti

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by (hand) (mail) on November 10, 2005

Matthew P. Gayotti

EXHIBIT A

ReedSmith

Jeffrey M. Tamarin
Direct Phone: 212.549.0371
Email: jtamarin@reedsmith.com

Reed Smith LLP
599 Lexington Avenue
New York, NY 10022-7650
212.521.5400
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November 1, 2005

VIA FEDERAL EXPRESS

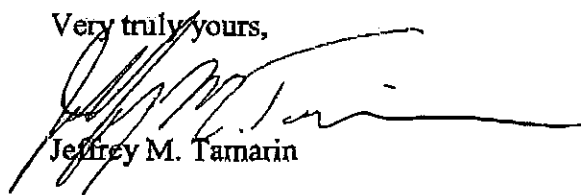
Merton Thompson, Esq.
Burns & Levinson LLP
125 Summer Street
Boston, MA 02110

Re: Republic Restaurant, Inc. v. Haydan Washington Street, Inc.,
d/b/a Pho Republique and Jack H. Bardy

Dear Mr. Thompson:

In accordance with the Court's recent decision, enclosed is a cashier's check payable to your client, Haydan Washington Street, Inc. in the amount of \$1,000. Accordingly, the dismissal of the action is *without prejudice*.

Very truly yours,



Jeffrey M. Tamarin

JMT:rk

Enclosure

cc: Matthew Zayotti, Esq. (via facsimile; w/out encl.) ✓

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